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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/580,944	05/30/2006	Torsten Schwan	WUE-53	8904
7590 06/24/2011				
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EXAMINER				
CIRIC, LJILJANA V				
ART UNIT		PAPER NUMBER		
3785				
MAIL DATE		DELIVERY MODE		
06/24/2011		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/580,944

**Applicant(s)**

SCHWAN ET AL.

**Examiner**

LJILJANA CIRIC

**Art Unit**

3785

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 March 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 6-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 March 2011 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsman's Patent Drawing Review (PTO-940)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. This Office action is in response to the reply filed on March 22, 2011.
2. Claims 6 through 12 remain in the application, all as amended, either directly or indirectly.

### ***Response to Arguments***

3. Applicant's arguments filed on March 22, 2011 have been fully considered but they are not persuasive.

In response to applicant's arguments that the Fischer et al. reference fails to show a plurality of sensors located in a single zone, it is hereby noted in response that pending claims are required to be broadly interpreted, and as such, claimed areas/portions/zones/volumes in an apparatus which fail to have strict boundaries or structures associated therewith are not strictly limited to areas/portions/zones/volumes as identified in the prior art but can be read on reasonable corresponding areas/portions/zones/volumes as noted in greater detail below.

Additionally, applicant cannot rely on new matter and/or indefinite limitations in the claims as amended for patentability, as also explained in greater detail below, by relying on the newly added limitations relating to the control unit deriving an actual ambient temperature value for the cabin zone from a plurality of individual ambient temperature values.

Thus, applicant's traversal of the prior art rejections based on the Fischer et al. reference are not found persuasive.

### ***Drawings***

4. The drawings were received on March 22, 2011. These drawings are hereby approved.

### ***Specification***

5. Receipt and entry of the amended abstract filed on March 22, 2011 is hereby acknowledged.

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6. The amended abstract of the disclosure is objected to because the term “an *actual* temperature value” in the statement “The electronic control unit derives an actual ambient temperature value for the at least one cabin zone from the plurality of individual ambient temperature values” appearing in the amended abstract is not clear because an *actual* temperature value is generally, by definition, a temperature value which is measured—not derived or calculated. Thus the term “actual” appears to be used contrary to its standard meaning in the abstract to refer to a derived or calculated value. Correction is required. See MPEP § 608.01(b).

7. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: there appears to no proper antecedent basis in the specification for the newly recited “actual ambient temperature value” which corresponds to an ambient temperature derived by the electronic control unit from the plurality of individual ambient temperature values for the at least one cabin zone. It is, in fact, unclear as to which temperature value as mentioned in the specification the term “actual ambient temperature value” corresponds to.

***Claim Rejections - 35 USC § 112***

8. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

9. Claims 6 through 12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. As amended, claims 6 through 12 newly recite an “actual ambient temperature value”, but the originally filed disclosure fails to describe or otherwise even refer to such an actual ambient temperature value which is derived by the

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electronic control unit from the plurality of individual ambient temperature values for the at least one cabin zone. As such, this newly recited limitation appears to constitute impermissible new matter.

10. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

11. Claims 6 through 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Base claim 6 as amended now recites "an electronic control unit coupled to the plurality of temperature sensors and configured to derive an actual ambient temperature value for the at least one cabin zone from the plurality of individual ambient temperature values for the at least one cabin zone", but it is appears to be contrary to the common meaning of the term "actual" that "an actual ambient temperature value" is "derived" as opposed to measured. Where applicant acts as his or her own lexicographer to specifically define a term of a claim contrary to its ordinary meaning, the written description must clearly redefine the claim term and set forth the uncommon definition so as to put one reasonably skilled in the art on notice that the applicant intended to so redefine that claim term. *Process Control Corp. v. HydReclaim Corp.*, 190 F.3d 1350, 1357, 52 USPQ2d 1029, 1033 (Fed. Cir. 1999). Thus, the term "actual" in the claims appears to be used by the claims to mean "derived", while the accepted meaning is "existing" or "real". The term is indefinite because the specification does not clearly redefine the term.

The limitations following "wherein" in newly added claim 12 are not readily comprehensible, in part because the predetermined value is equated to a threshold temperature range, as opposed to a threshold temperature value, thus further rendering the claim indefinite with regard to the metes and bounds of protection sought thereby.

*Claim Rejections - 35 USC § 102*

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12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

13. As best can be understood in view of the indefiniteness of the claims, claims 6 through 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Fischer et al. (U.S. Patent No. 5,479,983; previously of record).

Fischer et al. discloses a passenger aircraft 1 essentially as claimed, including, for example: a cabin 1B subdivided into a plurality of cabin zones (i.e., with one zone being arbitrarily identified as zone 2 and the other zone being arbitrarily identified as the combination of zones 3 and 4) supplied with feed air via respective supply lines 11 through 16; a temperature sensor system including a plurality of discrete temperature sensors 18 to 20 arranged so that a plurality of these sensors (i.e., at least two sensors) are located in at least the one zone which is the combination of zones/areas 3 and 4 (note that alternately sensors 35 through 40 disposed in the respective zone supply lines 11 through 16 spaced from each other along a lengthwise direction of the various zones 2, 3, and 4 as shown in Figure 1 could be interpreted as being located in a corresponding zone); an electronic control unit 41 and/or 49 as shown in Figure 4 configured to derive measured ambient temperature values from sensors 18 through 20 and from sensors 35 through 40 and to control the feed air temperature supplied to the various zones 2, 3, and 4 based on a difference between the measured ambient temperature value and a room temperature target value (i.e., the desired temperature for each zone 2, 3, or 4--see column 5, lines 10-39).

The reference thus reads on the claims.

#### ***Conclusion***

14. The additional prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ljiljana (Lil) V. Ciric whose telephone number is 571-272-4909. The examiner works a flexible schedule, but can normally be reached weekdays between 10:30 a.m. and 6:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy J. Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system.

Status information for published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

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Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ljiljana (Lil) V. Ciric/

Primary Examiner, Art Unit 3785